loss occurring through its mistake must be recovered from the agent and not from the offeree. In the principal case there was the additional element, not present in the other cases, of knowledge of the mistake on the part of the offeree, and a second larger offer made by it in consequence of knowledge, and yet the holding is the same as if no such knowledge existed. A dictum of the Maine court in the case above cited seems to hint at a possible defense had the element of fraud been present. "Of course the rule above stated, presupposes the innocence of the receiver, and that there is nothing to cause him to suspect an error." Though mere *obiter* not necessary to the decision it raises the question at least, would not the decision of that court have been for the defendant in the principal case?

DEFENCE OF THE REALM—HABEAS CORPUS.—Appellant, Arthur Zadig, was born in Germany, but had become a naturalized British subject. By an order of the Secretary of State under Regulation 14B of the Defence of the Realm Regulations, Zadig was interned in a detention camp without a trial except for a hearing before an advisory committee presided over by a person who held or had held high judicial office. The reason given in the order for internment was that it was expedient for securing the public safety and the defence of the realm, "in view of his hostile origin and associations". Regulation 14B purports to be authorized by the Defence of the Realm Consolidation Act, 1914 (5 Geo. 5, c. 8), the relevant part of which is section 1, sub-section 1, providing that "during the continuance of the war" the Crown has power "to issue regulations for securing the public safety and the defence of the realm," and particularly to prevent assistance or information from being given to the enemy. A rule *nisi* was obtained calling upon the respondent, commandant of the place in which Zadig was interned, to show cause why a writ of *habeas corpus* should not issue on the ground that Regulation 14B was *ultra vires* and not authorized by the Defence of the Realm Consolidation Act. *Held,* that the rule should be discharged; that Regulation 14B was not *ultra vires,* but was authorized by the express language of the statute. Lord Shaw dissenting. *Rex* v. *Halliday,* [1917], A. C. 260.

The power of Parliament to authorize such a proceeding was conceded, and the sole question was one of construction of the Act. The chief arguments for the position that the regulation was *ultra vires* were that there was no provision for imprisonment of a British subject without trial; that a statute penal in nature must be strictly construed; and that some limitation must be put upon the general words of the statute, since an unrestricted interpretation would allow opportunity for abuse of the unlimited power thus given the government. The Lord Chancellor, in giving the prevailing opinion, gave as an answer to the latter argument "that it may be necessary in a time of great public danger to entrust great powers to His Majesty in Council, and that Parliament may do so feeling certain that such powers will be reasonably exercised". The House took the view that the order in question was not penal or punitive in character, but merely precautionary,

and that the limitation in time to the period of the war would be a protection against a permanent assumption of such power by the executive. The prevailing opinion further justified the refusal of a trial by the comment that "It seems obvious that no tribunal for investigating the question whether circumstances of suspicion exist warranting some restraint can be imagined less appropriate than a court of law," since no crime is charged and the only question is whether there is a ground for suspicion that a particular person may be disposed to help the enemy. Lord Shaw's able dissenting opinion goes largely upon the grounds argued by counsel for Zadig and upon the further ground that if Parliament had intended to interfere with the personal liberty and rights of a British subject it would have expressly said so, particularly by suspending the rights as to a writ of *habeas corpus,* as had been done on previous occasions when the nation was at war. The reply of the majority was that Parliament had here selected another way for effecting the same purposes by empowering the Crown "to issue regulations for securing the public safety and the defence of the realm," and that this authority covers "preventive methods, properly so called, for securing the desired end, as well as those methods which are truly punitive". On the other hand, Lord Shaw argued that the statute was meant to prescribe a course of conduct for the citizen, and that he could not be punished until he had offended; that the effect of the regulation would be to put a premium on offending by allowing a trial in case of an actual offender while imprisoning without trial and thus punishing those who had complied with the regulation. It is quite evident that the decision was governed to a considerable extent by the critical circumstances of the time, and that the dissenting opinion of Lord Shaw would in normal times be received favorably. Nevertheless, it is hard to see how the object of the statute could be effectively carried out unless the government were allowed to detain persons suspected of aiding the enemy, even though such detention would amount to punishment.

ESCROW—ORAL CONTRACT—STATUTE OF FRAUDS.—Pursuant to an oral agreement for the exchange of lands the parties thereto deposited their respective deeds with H. Before delivery was made B and C directed H not to deliver their deed to A and wife. H thereupon refused to deliver this deed. Action was brought to compel delivery. *Held,* that admitting that there was a valid escrow, the deposit of the same in escrow did not take the case out of the statute of frauds where there was no written enforcible contract. *McLain* v. *Healy* (Wash., 1917), 168 Pac. 1.

Prior to this case the law of the state of Washington on this point was uncertain, due to the apparent conflict between the cases of *Nichols* v. *Oppermann,* 6 Wash. 618, and *Manning* v. *Foster,* 49 Wash. 541. The principal case reaffirms the indefensible doctrine of the earlier case of *Nichols* v. *Oppermann, supra,* and impliedly overrules the more recent opinion in *Manning* v. *Foster, supra,* thus settling the law in that state. For a collection of other cases supporting this doctrine and comment thereon, see 15 MICH. L. REV. 579.